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# MOTIONS

University of San Diego School of Law

Volume 40, Issue 3

November 2004

## The Results Are In...Four More Years

Laura A. Slezinger  
Staff Writer

Depending on whether you consider yourself "red" or "blue", that phrase may cause you to squeal with glee or adversely, to pop Excedrin for your excruciating headache.

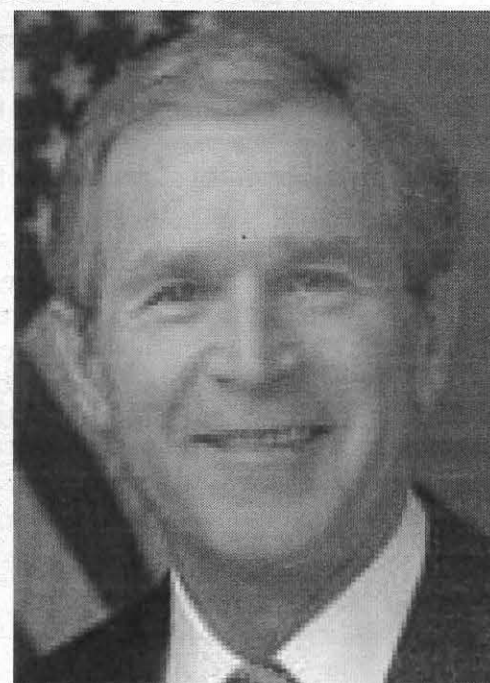
By now, everyone's heard the vital stats: Bush won with 51% of the vote, comprised of 59,459,765 total votes, with 286 electoral votes (270 needed to win). Kerry had 48%, comprised of 55,949,407 total votes, with 252 electoral votes. Bush was the 1st incumbent president to increase his majority in both the Senate and the House and to increase his own vote (by over 3.5 million) since Franklin D. Roosevelt (1936). Since 1988, he's been the first President to win more than 50% of the popular vote, receiving more than 59 million votes and breaking Reagan's record of 54.5 million. He also increased his personal percentages in almost every state in the union. He carried the Catholic vote and won 42% of the Hispanic vote and 24% of the Jewish vote (up from 19% in 2000).

There was also a Republican shift in Congress. The composition of Capitol Hill is crucial to the head of the Executive Branch. Congress can serve as an obstacle to the President's

agenda, or can greatly facilitate its implementation. Republicans have dominated Capitol Hill for a decade. With the GOP heading Congress, second-term plans such as more tax-cuts and Social Security restructuring will be easier for Bush to usher through. Democrats lost two seats to Republicans in the House, while in the Senate they lost four. The Senate breakdown is now 55 Republicans and 44 Democrats, with one Independent. In the House, there are 231 Republican seats to the Democrats' 200 and one Independent.

Many are touting "moral values" as the surprise deciding issue (based on exit polls). More than a fifth (22%) of all exit poll respondents listed moral values as the "most important issue" influencing their choice. Many people on both sides of the ticket believe this is a red herring, or causally unclear at least. Some numbers suggest that the differences are no greater this time around than in 2000, and don't account for Bush's increased voting share. Depending on how you read the numbers, they support or disprove the theory- but you know what they say about statistics. Arguably, "moral values" have always been behind the issues in any given election- even economic viewpoints may be explained to split down value lines.

Possibly due to the publicity of the "moral values" votes, prevailing attitudes about how to recast the Democratic campaign lean towards emphasizing a moral vocabulary of their own. Many suggest the Democrats need to highlight that they, too, stand for values. That is, majority values not fringe values. It is suggested that the values are there, and have been all along, but that the party needs to hone it's framing of issues in value terms, and increase its enunciation of these values. It may be seen as a glib shift of emphasis on rhetoric to some, but a glib emphasis on rhetoric is not unheard of in politics. The importance of values and morality is not anathema to the Democratic Party- historically it has been viewed as the party of social responsibility. The Republicans have not always held this monopoly- does anyone remember the Reagan administration for its moral values? In this recent campaign, incendiary issues such as Gay Marriage, Abortion and Terrorism have drawn lines casting



most Democrats as leftist radicals, which frankly most leftist radicals would disagree with.

Some espouse following the model of Bill Clinton, who moved the party towards the center to win two presidential elections in the 1990's. While the Democrats increased their numbers at the polls in 2004, and presented an uncommonly unified front, maybe they simply didn't mobilize as many as Karl Rove did. Going forward, Democrats seem wary of Bush's claims that he wants to reach out to all Americans. Many Democrats in office are bracing to obstruct Bush's agenda wherever and however they see fit. In an atmosphere perceiving a deep rift between the two parties, the psyche of each party harbors the idea that the other's agenda is not merely different, a reasonable alternative, but dangerous and insidious.

Some vocal and outraged Democrats have described a vote for Bush as a vote for antiquated religious beliefs, tantamount to an ostrich with its head in the proverbial sand. They conflate Christianity with backwards movement, Christians are the new Luddites. Of course, not all Democrats support Gay Marriage, not all Republicans believe that Bibles should be distributed in place of birth control and many across party lines do not equate Religion with the dark ages.

There is one thing that is clear looking forward to 2008, if you cared about the outcome of this election one way or another, you must get out and vote.

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# The Dean's Corner

From the Dean's Corner:

With Thanksgiving just around the corner, we make our final push of the fall semester and get ready for the end of classes, intense study sessions, and final exams. My congratulations to all of our December graduates and best wishes for their success as they being legal careers or prepare for the February Bar Exam.

Spring semester promises to be busy and exciting. On the calendar are the prestigious annual McLennon Moot Court Competition with its distinguished panel of judges and stellar competitors, as well as the 21<sup>st</sup> Nathaniel L. Nathanson Lecture Series which will feature Professor Gordon S. Wood, the Alva O. Way University Professor and Professor of History at Brown University, speaking on "The Origins of American Constitutionalism." In his distinguished career, Professor Wood has received the Pulitzer Prize for History and the Bancroft prize. Among his many classic works are "The Creation of the American Republic," "The Radicalism of the American Revolution," and a brand new biography on Benjamin Franklin.

## FORMER CALIFORNIA ATTORNEY GENERAL JOHN VAN DE KAMP SWORN IN AS STATE BAR PRESIDENT

Former state Attorney General John K. Van de Kamp of Los Angeles was sworn in today as the 80th president of the State Bar of California.

Van de Kamp, 68, pledged that he would work to foster a greater understanding of the public protection function of the bar and honor lawyers who consistently donate their talents and expertise to their communities. Sworn in by Chief Justice Ronald M. George, Van de Kamp succeeds Anthony P. Capozzi of Fresno.

Last year as a vice president of the bar's board of governors, Van de Kamp chaired the Regulation, Admissions and Discipline Committee and led a successful effort to expand the operating hours of the State Bar's discipline consumer hotline.

During his term as president, Van de Kamp said he wants to continue the progress the bar has made in public protection, encourage more pro bono service, improve benefits for members of the bar and increase diversity within the profession.

The bar's demographics indicate an under-representation of attorneys from the Hispanic and African American communities, Van de Kamp said. "We need to do a better job educating high school and college students of color about the

Spring also brings the sabbatical site inspection of the law school by the American Bar Association and the Association of American Law Schools. Every seven years, law schools are required to undergo a comprehensive inspection in order to retain accreditation by the ABA or membership in the AALS. Preparations for the visit have been ongoing for a number of months, and the week-long inspection will take place in March.

On a final note, with the end of the fall semester comes the end of our official 50<sup>th</sup> Anniversary celebration period. These past months have been filled with numerous events and programs acknowledging and celebrating the accomplishments and achievements made by the law school in the last 50 years. While reflecting on how far we have come in a half century, we look ahead at the work yet to be done, the challenges to be faced, and the ways to make our efforts better, our service greater, and our contributions to our constituents—be they our alumni, members of the community, our colleagues in academia—more significant. At this time of thanksgiving, I extend my thanks to all the members of our 50-year long law school community. Those of us connected to the USD Law School, regardless of years, all share a remarkable and fine heritage.

I extend warm wishes to all for a happy and healthy holiday season and a joyous new year.

opportunities in law."

He also called for attorneys and law firms to increase their pro bono service in an effort to provide assistance for many Californians who cannot afford legal representation.

Van de Kamp is a partner and of counsel at the Los Angeles offices of Dewey Ballantine LLP. He was elected California's attorney general in 1982 and served two terms before seeking the Democratic gubernatorial nomination in 1990. He was defeated in that race by Dianne Feinstein.

He spent eight years as Los Angeles District Attorney, served as a federal public defender in Los Angeles and director of the Executive Office of U.S. Attorneys under Deputy Attorney General Warren Christopher in Washington, D.C.

Van de Kamp and his wife Andrea live in Pasadena. They have one daughter, Diana, 25.

*[Founded in 1927 by the state legislature, The State Bar of California is an administrative arm of the California Supreme Court, serving the public and seeking to improve the justice system for more than 75 years. All lawyers practicing law in California must be members of the State Bar. In October 2004, membership reached 196,997, making it the largest state bar in the nation.]*



## BUSH AND CUBA

Mary M. McKenzie  
Contributor

The reelection of George W. Bush carries significant implications for American Cuba policy. This policy is regulated by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

As a result of the recommendations of the new Commission for Assistance for a Free Cuba, President Bush in May strengthened the embargo against the island and virtually prohibited American travel there. "Fully-hosted" travel and cross-cultural educational exchanges have been eliminated, and annual family visits to Cuba are now restricted to once every three years. Only immediate family members may send financial remittances to Cuba (\$1,200 per year), leaving many Cubans without sources of financial support. These moves were designed to weaken the regime of Fidel Castro and are unlikely to be rolled back (as Senator Kerry promised), given Bush's electoral victory in Florida.

Why should students of law

care? The U.S. Supreme Court has consistently held that the freedom to travel is protected by the Fifth Amendment. The Center for Constitutional Rights in New York, lead counsel in *Rasul v. Bush* and counsel for 200 Americans who have been charged under the OFAC regulations, further maintains that the arbitrary enforcement of the rules may violate the Equal Protection Clause. Additionally, the United States is a signatory to many international agreements that guarantee the freedom of movement.

Some argue that deference must be paid to OFAC's regulations because foreign policy remains the executive's prerogative. In fact, when President Reagan reinstituted economic restrictions on Cuba (after President Carter had removed them), the Supreme Court in *Regan v. Wald* (1984) found the regulations justified, especially when the President is dealing with an "enemy" state. The Center for Constitutional Rights questions whether the current international situation warrants the same deference, especially when Congress

has consistently voted to weaken or overturn the embargo on Cuba.

Others may argue that constraints on our liberty are acceptable if they compel regime change in Cuba. After the new American regulations were announced, dollar stores in Cuba were suddenly and temporarily closed. When they reopened, prices were approximately 15% higher. In October, the Cuban government announced that dollars will no longer circulate as legal tender. Thus, the dollars that go into the country will be held by the state. Cubans will hold convertible Cuban pesos which have no value outside of the country. In other words, the Cuban government is reacting to these policies by further closing its society to American influence. This hurts the Cuban people, not the Cuban government.

At the end of the Cold War, the United States complimented its stick of military power with the carrots of economic and cultural cooperation, compelling the opening of closed societies. Isn't this the goal of America's Cuba policy as well?

## CALIFORNIA: TRIGGERING POST-TRIAL STATUTORY DEADLINES

Mary Moreno  
Contributor

*Question: Is the statutory requirement of giving written notice of entry of judgment satisfied by serving a copy of the file-stamped judgment? Answer: "Yes," according to the California Supreme Court – for California counties no longer maintaining judgment books. *Palmer v. GTE California, Inc.*, 30 Cal. 4th 1265 (2003). [See sidebar re: judgment books.]*

The crux of the *Palmer* opinion is whether service of the file-stamped judgment itself is sufficient to trigger the statutory filing periods, or whether a separate document entitled "Notice of Entry of Judgment" must be prepared, filed and served to fulfill the statutory requirements.

Why is this important? By statute, post-trial motions such as a motion for judgment notwithstanding the verdict (CCP § 629) or a notice of intention to move for a new trial (CCP § 659) may be filed and served *before* the entry of judgment (CCP § 659(1)). Otherwise, these post-trial motions must be brought by the *earliest* of three deadlines: (1) within 15 days of the date of mailing notice of entry of judgment by the court clerk (CCP § 664.5); (2) within 15 days of service on the moving party by any party of written notice of judgment; or (3) within 180 days after entry of judgment (CCP §§ 629, 659(2)). The 60 days during which the trial court has jurisdiction to rule on such motions is similarly linked to the clerk's mailing

or a party's service of written notice of entry of judgment (CCP §§ 629, 660). Timely filing of post-trial motions is critical – for example, unless a motion for a new trial is timely, it does not extend the time to appeal.

The California Supreme Court granted the petition for review because of disagreement in the Courts of Appeal on what constitutes service of notice of entry of judgment sufficient to trigger the statutory deadlines for bringing and determining post-trial motions.

In deciding *Palmer*, the Court considered the interplay between § 664.5, which describes mailing notice of entry of judgment, and §§ 629, 659, and 660, which govern the filing of post-trial motions for a new trial and judgment notwithstanding the verdict. In construing a statute, the Court's role is limited to ascertaining the Legislature's intent as to its purpose. If the statutory language on its face answers the question, that answer is binding unless the Court concludes the language is ambiguous or does

not accurately reflect the Legislature's intent.

The Court noted that the post-trial motion sections (§§ 659, 660) link their jurisdictional time limits to mailing of entry of judgment by the clerk pursuant to § 664.5, but neither section refers to § 664.5 in describing service by a party. It found the plain language of §§ 659 and 660 expressly incorporates the provisions of § 664.5 only when the court clerk mails notice of entry of judgment. To be service pursuant to § 664.5 the notice of entry of judgment mailed by the court clerk must affirmatively state it is given upon order by the court or under § 664.5.

The Legislature had revised § 664.5 in 1981 and 1982 in response to trial courts' concern over the costs entailed by the then-existing requirement that the *court clerk* mail to the parties all notices of entry of

**Please see Notice at page 5**

### SIDEBAR:

Dating from the mid-19<sup>th</sup> century, under the traditional method for entering judgments, the superior court clerk made a notation in a book known as the judgment book. Under this method, entry of judgment could occur on a day other than the day on which the clerk filed the original judgment in the superior court file; therefore, giving notice of the filing date did not give notice of the date of entry.

In 1974 the California Legislature created a statutory alternative (§ 668.5) whereby a county may dispense with the judgment book if, before filing the original judgment in the superior court file, the clerk records the judgment on microfilm or enters it either in the register of actions or in the court's electronic data-processing system. Pursuant to § 668.5, the date of filing the judgment with the clerk shall constitute the date of entry. Today, most counties use the newer method, whereby a judgment's filing date, as shown on a file stamp, is the judgment's date of entry. In these counties, serving a file-stamped copy of a judgment gives notice of the judgment's date of entry.



## TORERO TEMPLATE OF SUCCESS: Guylyn Cummins



Aaruni Thakur  
Staff Writer

Guylyn Cummins is a partner in the Entertainment and Media Practice Group at Sheppard Mullin Richter & Hampton's San Diego Office. A USD Law graduate, Ms. Cummins tries First Amendment issues on behalf of San Diego's media companies: The McGraw-Hill Companies, The Copley Press, Clear Channel Communications, The Tribune Company and Court TV. In addition, Ms. Cummins represents national television networks when they have press issues in the San Diego Market.

She was listed as one of the Best Lawyers in America in 1997, 1998, 1999, 2000, and 2001. Ms. Cummins sat down with *Motions* recently.

**Motions:** You had earned a Master's

*Degree in Journalism before going to law school.. What made you want to go to law school?* I think throughout all of my journalism studies, I enjoyed the communications law classes that I took. When I moved to San Diego, and my journalism background had primarily been in documentary writing, which was really limited in San Diego, I decided to

go to law school.

**Motions:** What did you think of law school?

I thought it was a wonderful education; I think the way they teach you to think through problems, and just learning about all the different bodies of law that apply to running our government, conducting ourselves as individuals, and just daily life, is fascinating.

**Motions:** What was your first job?

I externed for the Court of Appeal as a 3<sup>rd</sup> year law student, and I accepted Gray Cary's offer of employment after having clerked at O'Melveny & Myers in Los Angeles and Gray Cary in San Diego the summer before I graduated.

**Motions:** What is your most memorable case?

I've actually had several for different reasons. One of the first cases I

worked on as a young attorney was the first right to die case in California on behalf of an insurance company. The issue was how an individual could evidence his consent to die when he couldn't speak or write. I had another involving access to information concerning arrest records that went to the United States Supreme Court. I have also worked on almost all of the criminal cases in San Diego County that had media issues over the last 15 years. Those have all been very memorable, from Betty Broderick to Dale Akiki to David Westerfield's trial.

**Motions:** What was the most recent case you worked on?

I am writing an appeal brief and also filing an answer to a petition for review in two companion cases involving public access to the Civil Service Appeal Hearings of Peace Officers. The decision in the case that the Peace Officers Association is appealing is a published decision, Copley Press, Inc. v Superior Court, 122 Cal.App.4th 489.

**Motions:** How do you feel about letting young lawyers work on big cases?

I think that it's fine as long as it's appropriate depending on the case. For example, in researching legal issues, I think that new graduates have spent much more time using new technology research methods, so they are probably more efficient than other

**Please see Torrero at page 5**

## Phi Delta Phi Holds Fall Initiation

Tommy Feiter  
Staff WRiter

The International Legal Fraternity of Phi Delta Phi held its Fall Initiation on Friday, October 15 in the Grace Courtroom. The chapter's Magister Charlotte Hasse said, "This semester's initiation went very well. We were pleased to welcome our new members and are looking forward to a year of great opportunities for all our members."

As law students we are continuously bombarded with "important" information. At some point we probably heard about our school's legal fraternities; however, I wonder how familiar most of us really are about Phi Delta Phi. The following is some background information on this particular fraternity:

The Phi Delta Phi International Legal Fraternity was established in 1869 to promote a higher standard of professional ethics in the law and is among the oldest of legal organizations in North America. There are one hundred and thirty-one active chapters (called "Inns") in the Western Hemisphere and the number increases yearly. Since its induction, Phi Delta Phi has initiated over 200,000 members making it

the world's largest legal fraternity whose members consist solely of students and practitioners of the law. Some of Phi Delta Phi's most notable alumni include Benjamin N. Cardozo, Gerald R. Ford, Anthony M. Kennedy, Robert F. Kennedy, Karl Llewellyn, Thurgood Marshall, Sandra Day O'Connor, William L. Prosser, William H. Rehnquist, Franklin D. Roosevelt, Theodore Roosevelt, Antonin Scalia, John Paul Stevens, and William H. Taft (Source: [www.phideltaphi.org](http://www.phideltaphi.org)).

According to Jason Maxwell, Esq. of Higgs, Fletcher, and Mack, who also happens to be the Province President for the are including USD's Wigmore Inn, "A legal fraternity is a nice addition to any law student's resume, especially when the student is marketing himself or herself for a summer associate position."

In case you are wondering how to get involved in Phi Delta Phi, the process is simple. The Executive Board will automatically invite 1Ls who grade onto Law Review or the International Law Journal to join. In addition, the Board will also invite all 1Ls who have demonstrated their commitment to community service to apply for membership. 2Ls, 3Ls and 4Ls who rank in the top 20% of their respective



**Pictured L to R:** Tommy Feiter, Michelle Hargrove, K.C. (Wiborg) Kyllander, Charlotte Hasse, Kimberly Hernandez and Heather Stone. **Not Pictured:** Christine Sindlinger.

classes are also invited to join. Hasse reports, "It's easy to get involved with Phi Delta Phi, and we highly encourage all qualifying students to accept our invitation to become a member."

The benefits of being a member of Phi Delta Phi include the opportunity to network with fellow top law students, apply for the fraternity's academic scholarships, get involved in community events, and participate in social and professional activities and functions.

Any student intetested in learning more about becoming a member of Phi Delta Phi can contact Charlotte Hasse at [char3d@yahoo.com](mailto:char3d@yahoo.com).



## **Torrero, continued from page 4**

attorneys.

**Motions:** *What's the most important thing a lawyer should have if he or she wants to be a first Amendment attorney?*

Obviously a strong love of the First Amendment, and an understanding of the importance of public access to information and the importance of free speech in our society.

**Motions:** *How do you assess USD as a whole, and the law school in particular?*

That's so hard for me to answer because I've never been to law school any place else. I feel it was excellent, and I don't feel like I have been hampered by any lack of coursework or teaching at USD in my practice. So, I think it's a very good school.

**Motions:** *Are you involved with any other groups or professional organizations?*

I am an attorney that works on First Amendment cases for the American Civil Liberties Union. I am involved in the Media Law Resource Center, which helps media companies educate and defend against lawsuits infringing

First Amendment rights. I am on the legal advisory board for the California First Amendment Coalition, and I often do Pro-Bono work for the California Newspapers Publication association. I am also part of a new group called Californians Aware. I also do educational panels for Bench Bar Media Committees in San Diego County and the Society of Professional Journalists.

**Motions:** *Where do you see the legal profession heading in the next 20 years?*

I think that the trends that I see are that the practice of law is being analyzed as a business, and that the larger law firms across the country are being viewed more through business models, rather than what I think used to be a professional model. For example, I think if you take law firm compensation of attorneys, it used to be much more of a seniority-based system, whereas now it's more of a production system based on client and matter origination.

**Motions:** *Does being in the spotlight, being so well-known in your field and in the community, impact your work?*

I think that, with respect to most of the television or newspaper work that I do, it is commenting on decisions that have been brought by the press, or requests from the press for access to information and that my role is to help the public

understand why the press was asking for the information or asking for access to a court hearing, and why it's important for society to be able to review court proceedings or records, or government meetings and records. The only other thing I would say is that, I think that having concentrated my practice in one area makes it easier for judicial and governmental entities to know that I represent my clients zealously.

**Motions:** *Do you get a sense that judges know who you are and that you mean business?*

I think that they understand that my clients make their decision internally, but that generally the press's only avenue for review if they don't know why a court won't let them see sealed information, or have access to sealed court proceedings is to have it reviewed by a higher court. I think that they know that the press believes that the right of access is important, and will generally take the necessary steps to protect that right.

**Motions:** *Who should I interview next?*

If you have not interviewed any judges so far, I would probably interview someone who has become a judge, and there are quite a few that are USD alums. As for attorneys, I would talk to Jerry McMann at Seltzer Kaplan.

## **Notice, continued from page 3**

judgment. The Legislature has not amended the relevant provision of the post-trial motion sections since 1982, when it amended § 664.5 to place the burden on the party submitting a judgment to prepare, file and serve notice of its entry. Thus, those sections continue to peg their time limits to service by any party of written notice of entry of judgment.

The Court specifically notes that in light of the nonparallel provisions of the two statutory schemes at issue, one for entry of judgment and one for post-trial motions, it is not surprising that the issue of deadlines for post-trial motions has been addressed in a number of Court of Appeal decisions.

Civil procedure USD School of Law Professor Walt Heiser commented, "The California Supreme Court opinion in *Palmer v. GTE California, Inc.*, does resolve a troublesome question of statutory construction as to what starts the time limits for bringing and ruling on motions for new trial and for judgment notwithstanding the verdict, and in that sense it is a significant decision. But the court cannot resolve the real problem here, which is that these and other post-trial time limits are governed by a several unclear, overlapping, and out-of-date statutes. The Legislature needs to revise and simplify these statutes so that litigants have a clear statement of precisely what activity triggers these time

limits."

Indeed, footnote 2 of Justice Kennard's decision, addressing the traditional and newer methods of "entering" a civil judgment in California, concludes:

Given the near universal adoption of the newer system, the concept of "entry," as distinct from filing, appears to have lost its utility, and its survival has become a frequent source of confusion, as this case illustrates. Its complete removal from our system of civil procedure will, however, require an extensive statutory revision by the Legislature.

It seems unlikely the Legislature can heed this call to revise the Code of Civil Procedure, particularly given the State of California's current budgetary and political climate. However, the *Palmer* decision should serve to curtail some of the confusion surrounding post-trial statutory deadlines, and perhaps redirect focus to the substantive merits of a case rather than procedural issues. As well, the *Palmer* opinion re-emphasizes the continuing professional obligation for counsel to remain current with statutory calendaring practices.

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## A Supreme Court Nomination Dialectic, Between a Wandering Former Newspaperman and an Esteemed Anglophile Grammarian (with apologies to the late Professor Henry Hart)

Damien M. Schiff  
Contributor

D. Schiff (Q): Tally ho, Madam Grammar! I'm glad I caught you before the fox hunt.

Madam Grammar (A): Say, there, Esquire Schiff, what brings you to this sylvan section of Somerset?

Q: I thought that your old San Diego readers might appreciate some of your perspicacious commentary on imminent Supreme Court nominations.

A: What a jolly good idea, old bean! I should be most pleased to pontificate with prolixity and and not a little clairvoyance.

Q: I assume you believe that the Chief Justice's spot will open first?

A: Yes, indeed. My inside-the-beltway connections tell me to expect the C.J. to step down perhaps before the beginning of the 109<sup>th</sup> Congress. That of course would invite a recess appointment by the President. Do you know who is the only recess-appointed Chief Justice?

Q: I'm sorry, MG, but I do believe that it is my prerogative to ask the questions and yours to answer.

A: Quite, then let's call it a *rhetorical* question. The first and only C.J. to be recess-appointed was the highly esteemed colonial jurist John Rutledge. He—

Q: Sorry, MG, highly esteemed by whom?

A: I'm not sure, but that is of no consequence; what matters is that he was esteemed by *somebody*. Anyway, Rutledge served for about six months; the Senate put the kibosh on his nomination after the C.J. made some rather impolitic comments about

General Washington's handling of foreign policy.

Q: So you mean Rutledge wasn't nixed because of some intemperate comment he made in a law review article?

A: Almost. Rutledge had submitted a paper entitled "The Fourteenth Amendment: an anticipatory interpretation by a pre-Originalist," but Harvard rejected it for insufficient footnoting.

Q: I see. So whom do you think the President would recess appoint?

A: If the opportunity should present itself I would put my money on Judge Bork.

Q: Bork? Isn't he slouching towards retirement?

A: Yes indeed, but I presume that the Senate would not confirm the appointment, so in effect Bork would have only a month and a half. That would be enough time for him to blot out the Privileges and Immunities clause from every copy of the Constitution in the Supreme Court building. He could also cat-call Senator Specter across the street on the Capitol.

Q: Who then as the permanent C.J.?

A: In all seriousness, I had thought Alberto Gonzales to be the top pick, but with his nomination (and probable) confirmation to the AG job, I believe he's off. In his stead, I would not be the least bit surprised if Clarence Thomas should be nominated.

Q: Thomas!? Would he want it?

A: There's the rub; I don't know. He's plucky enough that he might turn the President down. I can tell you one thing: should he become the C.J., you won't see any stripes on his robe.

Q: Would Thomas pass the Senate?

A: Assuming Professor Hill doesn't make an *éclat*, I think Thomas has a fighting chance, for surely the Republicans would accuse the Democrats of trying to shoot down the first nomination of an African-American to be C.J.

Q: So you mean he could get on by identity politics?

A: Well, as a very sharp reporter told me recently, the Republicans have not put a true-blue conservative on the Court without the help of identity politics since Rehnquist. Thomas's nomination surely was helped by it. So too was Scalia's; if you recall, Mario Cuomo supported Scalia in part because he was to be the first Italian-American on the Court.

Q: Any other possibilities for the C.J. spot?

A: My sources tell me that Michael Luttig on the Fourth Circuit is a strong possibility, the only knock against him being that he is barely over fifty.

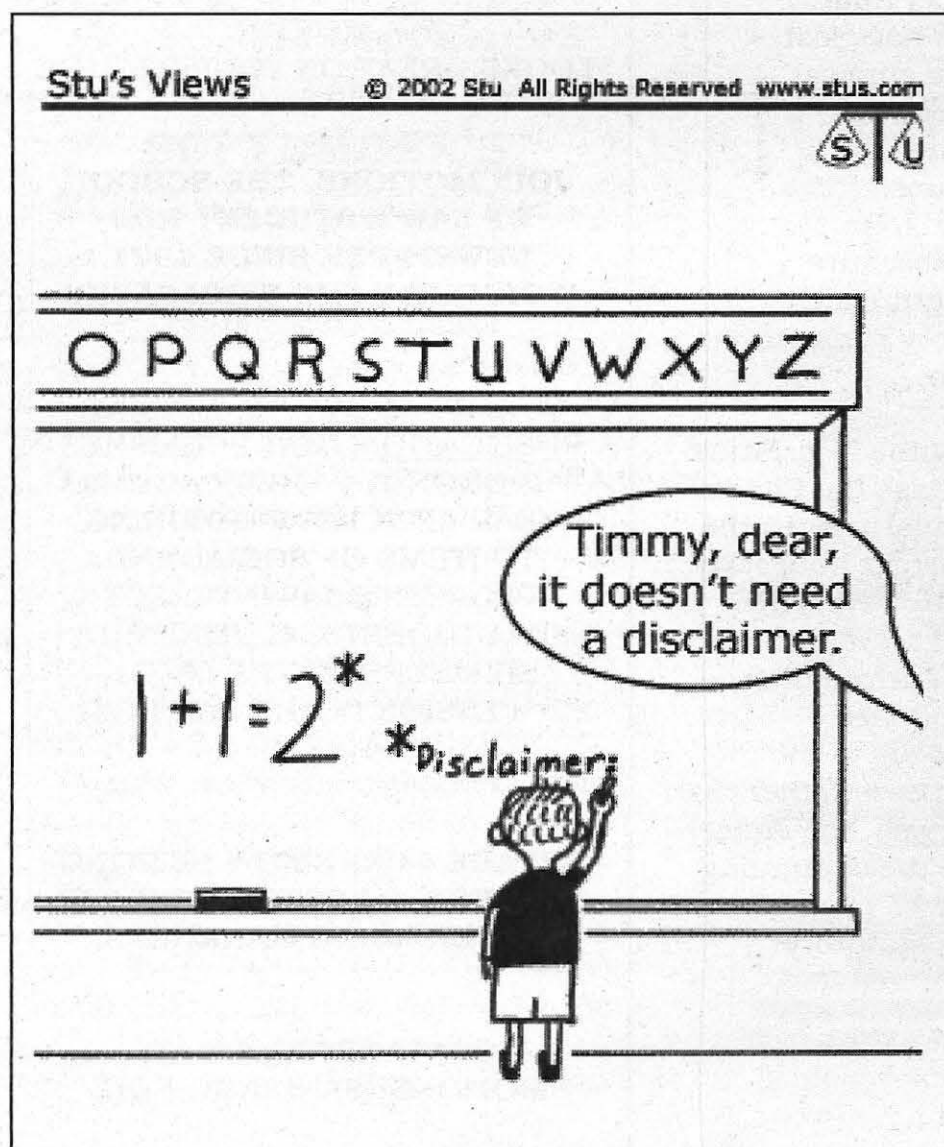
Q: Do you foresee any other vacancies on the Court in the short term?

A: Yes. I should think that O'Connor must be pining now for the Arizona ranch. If she were to exit soon, I would wager that the President would nominate John Roberts of the D.C. Circuit, Harvie Wilkinson of the Fourth Circuit, Emilio Garza or Edith Jones of the Fifth Circuit, perhaps even Janice Rogers Brown from the California Supreme Court.

Q: Would you consider them conservatives?

A: Certainly Roberts and Wilkinson are conservatives with a libertarian streak.

**Please see *Dialectic* at page 7**





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## ***Dialectic, continued from page 6***

Garza I do not believe is an ideologue. Jones wrote a law review article in which she argued that the United States was and is a Christian nation; that might put her in trouble. With Brown I suspect the same criticisms that were leveled against her in her circuit court battle would be repeated if she were nominated to the high court. Q: What about Justice Stevens?

A: Yes, I suspect that he will have to retire soon—he's eighty-five and he's not getting any younger. I think the President would be forced to nominate someone who is a known moderate, even if that includes support for *Roe v. Wade*, given the man whom he would be replacing.

Q: Well, Ginsburg is over seventy, isn't she?

A: Yes, and I suspect that she too may retire if Stevens leaves. The Stevens replacement analysis would apply *mutatis mutandis* to Ginsburg.

Q: Do you anticipate a filibuster to any conservative nominee?

A: Perhaps. At the Federalist Society's National Convention held in Washington in November, Senate Majority Leader Bill Frist laid down the gauntlet in a keynote speech, essentially challenging the Democrats

to a floor fight. I think the Democrats will have to let some conservatives pass; the Republicans are adamant; and the public has had enough.

Q: How does Specter change the analysis?

A: Probably very little, honestly. He owes his re-election to the Administration and Senator Santorum's early primary support. I think his election night mouth-off was simply off-the-cuff and off-the-brain. He'll come around; if not, he can say good-bye to the chairmanship.

Q: Do you think his fellow Republicans on Judiciary would press the issue so strongly?

A: Yes, especially since the Republican Senate Conference can change the chairmanship rules for Senator Hatch to let him keep his position on Judiciary for another two years.

Q: You believe otherwise that the Court's make-up will remain the same?

A: Yes, I don't anticipate any other spots opening.

Q: What about the Court's jurisprudence?

A: That is a far trickier question, as you well know. If O'Connor retires and is replaced by a true federalist, then the Rehnquist revolution, exemplified by *Seminole Tribe*, *Alden*, *Lopez*, *Printz* and *Morrison* will be entrenched for at least a half-century.

If her replacement is like herself, then I would expect a significant roll-back in states' rights *vis à vis* the federal government. As far as the Court's Fourteenth Amendment jurisprudence goes, look to Kennedy. If the new appointees are more conservative than he, then I suspect he will, chameleon-like, begin voting with that block and perhaps reverse his own *Lawrence v. Texas*.

Q: I very much doubt that.

A: Is that a question?

Q: Sorry.

A: Rules are rules, my good man. You query, I respond.

Q: Yes, yes.

A: Well, in answer to your *question*, I believe Kennedy is like a reed in the wind; if the gale is from the Right, he will fold. As for abortion, one just can't tell because you might have appointments who are personally in favor of relaxed abortion laws but who cannot find any right to abortion in the Constitution. They wouldn't show their hand in confirmation, so we shall just have to wait.

Q: Well, I must thank you, MG, for your trenchant commentary.

A: My pleasure, Esquire Schiff. I believe I hear the hounds now. As Terry Thomas would say, I must press on with all possible despatch. Tally ho and you-halloo!



## **Torrero, continued from page 4**

attorneys.

**Motions:** *What's the most important thing a lawyer should have if he or she wants to be a first Amendment attorney?*

Obviously a strong love of the First Amendment, and an understanding of the importance of public access to information and the importance of free speech in our society.

**Motions:** *How do you assess USD as a whole, and the law school in particular?*

That's so hard for me to answer because I've never been to law school any place else. I feel it was excellent, and I don't feel like I have been hampered by any lack of coursework or teaching at USD in my practice. So, I think it's a very good school.

**Motions:** *Are you involved with any other groups or professional organizations?*

I am an attorney that works on First Amendment cases for the American Civil Liberties Union. I am involved in the Media Law Resource Center, which helps media companies educate and defend against lawsuits infringing

First Amendment rights. I am on the legal advisory board for the California First Amendment Coalition, and I often do Pro-Bono work for the California Newspapers Publication association. I am also part of a new group called Californians Aware. I also do educational panels for Bench Bar Media Committees in San Diego County and the Society of Professional Journalists.

**Motions:** *Where do you see the legal profession heading in the next 20 years?*

I think that the trends that I see are that the practice of law is being analyzed as a business, and that the larger law firms across the country are being viewed more through business models, rather than what I think used to be a professional model. For example, I think if you take law firm compensation of attorneys, it used to be much more of a seniority-based system, whereas now it's more of a production system based on client and matter origination.

**Motions:** *Does being in the spotlight, being so well-known in your field and in the community, impact your work?*

I think that, with respect to most of the television or newspaper work that I do, it is commenting on decisions that have been brought by the press, or requests from the press for access to information and that my role is to help the public

understand why the press was asking for the information or asking for access to a court hearing, and why it's important for society to be able to review court proceedings or records, or government meetings and records. The only other thing I would say is that, I think that having concentrated my practice in one area makes it easier for judicial and governmental entities to know that I represent my clients zealously.

**Motions:** *Do you get a sense that judges know who you are and that you mean business?*

I think that they understand that my clients make their decision internally, but that generally the press's only avenue for review if they don't know why a court won't let them see sealed information, or have access to sealed court proceedings is to have it reviewed by a higher court. I think that they know that the press believes that the right of access is important, and will generally take the necessary steps to protect that right.

**Motions:** *Who should I interview next?*

If you have not interviewed any judges so far, I would probably interview someone who has become a judge, and there are quite a few that are USD alums. As for attorneys, I would talk to Jerry McMann at Seltzer Kaplan.

## **Notice, continued from page 3**

judgment. The Legislature has not amended the relevant provision of the post-trial motion sections since 1982, when it amended § 664.5 to place the burden on the party submitting a judgment to prepare, file and serve notice of its entry. Thus, those sections continue to peg their time limits to service by any party of written notice of entry of judgment.

The Court specifically notes that in light of the nonparallel provisions of the two statutory schemes at issue, one for entry of judgment and one for post-trial motions, it is not surprising that the issue of deadlines for post-trial motions has been addressed in a number of Court of Appeal decisions.

Civil procedure USD School of Law Professor Walt Heiser commented, "The California Supreme Court opinion in *Palmer v. GTE California, Inc.*, does resolve a troublesome question of statutory construction as to what starts the time limits for bringing and ruling on motions for new trial and for judgment notwithstanding the verdict, and in that sense it is a significant decision. But the court cannot resolve the real problem here, which is that these and other post-trial time limits are governed by a several unclear, overlapping, and out-of-date statutes. The Legislature needs to revise and simplify these statutes so that litigants have a clear statement of precisely what activity triggers these time

limits."

Indeed, footnote 2 of Justice Kennard's decision, addressing the traditional and newer methods of "entering" a civil judgment in California, concludes:

Given the near universal adoption of the newer system, the concept of "entry," as distinct from filing, appears to have lost its utility, and its survival has become a frequent source of confusion, as this case illustrates. Its complete removal from our system of civil procedure will, however, require an extensive statutory revision by the Legislature.

It seems unlikely the Legislature can heed this call to revise the Code of Civil Procedure, particularly given the State of California's current budgetary and political climate. However, the *Palmer* decision should serve to curtail some of the confusion surrounding post-trial statutory deadlines, and perhaps redirect focus to the substantive merits of a case rather than procedural issues. As well, the *Palmer* opinion re-emphasizes the continuing professional obligation for counsel to remain current with statutory calendaring practices.

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## 25 Things to do During Finals

1. Fall asleep (or pretend to) until the last 15 minutes. Wake up, say "oh geez, better get cracking" and do some gibberish work.

2. When you get your copy of the exam, run out screaming "I've got the secret documents!!!"

3. Make paper airplanes out of the exam. Aim them at the proctor's nostril.

4. Talk the entire way through the exam. Read questions aloud, debate your answers with yourself out loud. If asked to stop, yell out, "I'm SOOO sure you can hear me thinking."

5. Bring cheerleaders.

6. Walk in, get the exam, sit down. About five minutes into it, loudly say "I don't understand ANY of this. I've been to every lecture all semester long! What's the deal?"

7. On the answer sheet find a new, interesting way to refuse to answer every question. For example: I refuse to answer this question on the grounds that it conflicts with my religious beliefs. Be creative.

8. Bring pets.

9. Run into the exam room looking about frantically. Breathe a sigh of relief. Go to the proctor, say "They've found me, I have to leave the country" and run off.

10. Fifteen minutes into the exam, stand up, rip up all the papers into very small pieces, throw them into the

air. If you're really daring, ask for another copy of the exam. Say you lost the first one.

11. Do the exam with crayons, paint, or fluorescent markers.

12. Come into the exam wearing slippers, a bathrobe, a towel on your head, and othing else.

13. Come down with a BAD case of Turet's Syndrome during the exam. Be as vulgar as possible.

14. Do the entire exam in another language. If you don't know one, make one up.

15. As soon as the instructor hands you the exam, eat it.

16. Walk into the exam with an entourage. Claim you are going to be taping your next video during the exam.

17. Every five minutes, stand up, collect all your things, move to another seat, continue with the exam.

18. Turn in the exam approximately 30 minutes into it. As you walk out, start commenting on how easy it was.

19. Get the exam. Twenty minutes into it, throw your papers down violently, scream out "F\*\*k this!" and walk out triumphantly.

20. Arrange a protest before the exam starts (e.g. Threaten the instructor that whether or not everyone's done, they are all leaving after one hour to get drunk.)

21. Show up completely drunk. (At

some point during the exam, you should start crying for mommy.)

22. Bring things to throw at the proctor when he's not looking. Blame it on the person nearest you.

23. From the moment the exam begins, hum the theme to Jeopardy. Ignore the instructor's requests for you to stop.

24. When you walk in, complain about the heat. Strip.

25. Bring some large, cumbersome, ugly idol. Put it right next to you. Pray to it often. Consider a small sacrifice.

*Exerpted from <http://web.mit.edu/voodoo/www/is744/exam.html>*

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## Shame on the Governors

Colin Morris  
Contributor

The presidential election has come and gone. Many voters have allowed their excitement to settle into contentment. Many others have exchanged dismay for acceptance. Such is the aftermath of most all political campaigns. For all their conjecture, even the most loyal Republicans or Democrats cannot aver with sincerity that their lives will be significantly impacted for better or worse by the outcome of an election.

The same cannot be said for Carl Jones. For him the election was not about who the next president would be, or whether social security would be privatized. It was about one thing: passage of Proposition 66. With it, he might get out of prison sometime soon. Without it, he will not likely see freedom until the year 2019. What did Mr. Jones do to merit a sentence of 25 years to life in prison? He broke into his old high school during summer vacation.

Proposition 66 was termed the "3 strikes amendment." Governor Arnold Schwarzenegger would have voters believe it was the "Measure to Release 26,000 Murderers, Rapists and Child Molesters." So would former governors Gray Davis, Pete Wilson and Jerry Brown. Their assertion simply is not true.

Proposition 66 was designed to scale back California's 3-strikes law

– the toughest in the nation – to a point where it would remain the toughest in the nation. The law would merely be tailored to approximate its original intention: permanent lock-up of the state's most violent offenders.

Gov. Schwarzenegger's claim was that 26,000 of the worst criminal offenders would be released if the initiative passed. This claim stemmed from a provision in the measure supposedly affecting "second strike" offenses.

The initiative called for eliminating certain offenses from the list of those qualifying as a violent or serious felony. These include commercial burglary, residential burglary (when no one is home) and petty theft, as well as drug possession. People serving 25 years-to-life sentences for committing such offenses would be eligible for re-sentencing under normal statutory guidelines. So, of course this would result in thousands of child molesters being released into our neighborhoods, right?

What the Governor and many other opponents of Prop. 66 refuse to concede is that the re-sentencing provision only applied to third-strikers – people convicted of a third offense as minor as stealing a slice of pizza. A superior court judge in Sacramento County, Judge Raymond Cadei, has ruled this is what the ballot measure called for, not for re-sentencing of second-strike offenders. The judge's view was backed by the state Legislative

Counsel and Legislative Analyst (non-partisan state offices which assess the impact of ballot measures). Moreover, district attorneys throughout the state not only know this, they would have been vehemently arguing the position had Prop. 66 passed.

Admittedly, there was unintended ambiguity in the measure which may have allowed second-strike offenders to challenge their sentences, however unlikely. Even Erwin Chemerinsky, a strong opponent of 3 Strikes who challenged the law, unsuccessfully, before the United States Supreme Court, has conceded such a possibility. It should also be noted that the Los Angeles County Public Defenders office was lining up to bring forth thousands of second strike appeals based on the ambiguity.

But even if 26,000 inmates truly would be eligible for re-sentencing, does that group include murderers, rapists and child molesters? If it does, how many? And, would a lesser sentence actually be granted for such offenders?

Opponents of the measure warned that judges are required to interpret the 3 strikes law to the benefit of defendants. That does not mean, however, that a light sentence can be imposed. It means that a *lighter* sentence is preferable if the circumstances merit such. Are we to

**Please see Prop at page 10**

## SBA's Halloween Party 2004: More Trick than Treat

Tommy Feiter  
Aaruni Thakkur  
Staff Writers

Usually, USD Law's Halloween Party is an event that stands out during the year because there is a sense of playfulness that permeates the event. Maybe it's the costumes or maybe it's the all-you-can-drink beer, but USD's law students and their friends come decked out and ready to party.

It seems that this year's party was quite atypical, however. The same combination of costumes and alcohol instead resulted in numerous fights and an unfortunate early ending to the fun and festivities.

Our elected SBA officers were quick to respond to the events that unfolded on October 29<sup>th</sup>, 2004 by releasing an explicatory memorandum in each of our mailboxes. The memo expressed how they were all "angry and saddened by the unnecessarily premature closure of our Halloween party." The memo also said how "it [was] unfortunate that the highly inappropriate acts, and callous disregard of others, by a handful of people brought disappointing consequences to us all."

SBA President Tim Cross used the bi-monthly SBA Meeting to speak to club representatives about the event. Said Cross, "There were multiple fights at the Halloween party, with the bartenders as well as others." Approximately 5 police cars arrived at the party, and soon 10 officers were investigating the incidents. Ultimately the San Diego Police Department was forced to shut the party down because the caterer serving alcohol did not have a liquor license and also because there was no security at the event. According to Cross, "[the Department of Alcoholic Beverage Control] is investigating the caterer" and as a result, SBA may be able to "recoup some of our losses."

Several club representatives expressed interest in finding out what was to become of those found to be responsible for the fighting. SBA responded that the matter is going to be thoroughly investigated and those responsible individuals will be dealt with appropriately.

According to Dean Carrie Wilson, who also spoke about the event at the SBA Meeting, "police called [her] thinking this was a university event." However, because the Student Bar Association is funded separately with money paid by students rather than

University funds, it is not an officially sanctioned University event. Nevertheless, Dean Wilson said that the University is "taking this very seriously." She concluded by saying that anyone who has any first-hand information, such as eyewitnesses who can identify people, are encouraged to submit information directly to her in writing.

Party attendees were able to request refunds for their tickets by submitting either their ticket stubs or wristbands to the SBA. Furthermore, the SBA assures the student body that the involved individuals will never again have the opportunity to disrupt the enjoyment of other SBA sponsored activities.

When contacted about this article, SBA Vice President Aaron Dumas looked ahead to the next big SBA event saying that "the Spring Semester Party is definitely going to happen and it's going to be big."

For more information on the SBA and other upcoming events, you can check out their website at [www.sandiego.edu/usdlaw/sba](http://www.sandiego.edu/usdlaw/sba).



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There are also international business clinics in Barcelona, Moscow and Paris where students work in law firms and in London, where students work with barristers or solicitors. The firm experience is supplemented with seminars. Alternatively, students can study by the English tutorial method in Oxford, researching and writing papers and discussing them one-on-one with Oxford dons.

USD offers summer law study programs in Barcelona, Dublin, Florence, London, Mexico City, Moscow-St Petersburg, Oxford, and Paris. It is possible to combine two programs to obtain 10 credits in the summer.

For further information, write Ms. Cindy King, USD Law School, 5998 Alcala Park, San Diego CA 92110-2492, 619-260-7460, 619-260-2230 fax, e-mail cking@sandiego.edu, or at our web site [www.sandiego.edu/lawabroad](http://www.sandiego.edu/lawabroad).

### Prop, continued from page 9

assume that judges are so incompetent they will fail to give a convicted child molester the punishment he deserves?

According to a report of the Legislative Analyst, Proposition 66 would prevent this from happening. The measure mandated *increased* sentences for child molesters whose victims were under the age of 14 and a minimum sentence of 25 years to life when the victim was under 10. It also allowed prosecutors to bring new charges that were not pursued at trial.

Governor Schwarzenegger's characterization of Prop. 66 was misleading at best. But what damage did it do? Opponents of Prop. 66 unleashed a virtual onslaught against the measure at the eleventh hour. According to the Los Angeles Times, funding sprung largely from a deal between former Governor Pete Wilson and Orange County billionaire Henry T. Nicholas III, who agreed to donate \$1.5 million. Beginning October 27,

television viewers were bombarded by commercials featuring Governor Schwarzenegger quoting scary statistics. This ad campaign was carried out with no less fervor on the radio. Governors Davis, Wilson and Brown often spoke at the end of the commercials, voicing their support.

The campaign clearly worked. Despite leading in polls for months by a margin of 2 to 1, Prop. 66 ultimately lost 53.2% to 46.8%.

Now, there is no question that approximately 4,000 inmates who deserve to be out of jail will have to wait, perhaps for life. Moreover, millions of additional dollars will be spent paying for their incarceration and paying to prosecute defendants with a much greater interest in avoiding conviction. This money is to be spent by a state so indebted that its voters recalled the previous governor and approved a \$15 billion bond measure. But at least our Governor is tough on crime. He's no girlie man.

## Attention 2nd Year Day and 3rd Year Evening Students

### The Joel and Denise Golden Merit Award in Child Advocacy

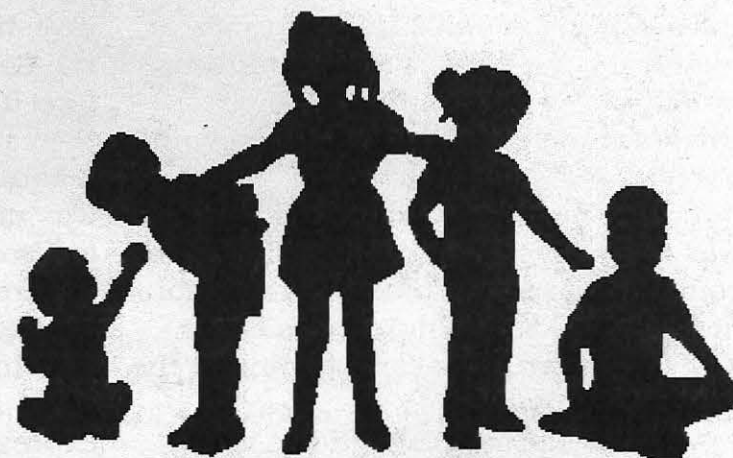
Commencing in Spring 2005, the Joel and Denise Golden Merit Award in Child Advocacy is presented annually to University of San Diego School of Law students who have used their legal skills to impact the lives of children in foster care. This award seeks to encourage students to work on behalf of foster children, thus enabling the foster children of San Diego to benefit from the innovative efforts of young legal advocates.

This award was created by a former USD law student who specialized in child advocacy and benefited from the opportunities offered by the Children's Advocacy Institute (CAI).

The award is named in honor of the student's parents: Joel, a gifted and generous attorney who works to vindicate civil rights, and Denise, a tireless child advocate and exceptional adolescent therapist. Most importantly, both are role models of unconditional love and support, which every child deserves.

Interested applicants must submit a one-page essay detailing how they have used their developing legal skills on behalf of children in foster care. Applicants may discuss one specific experience, or may discuss their work more generally. Applications are due at the Children's Advocacy Institute on or by April 15, 2005, and recipients will be contacted on or by May 6, 2005. Any second-year day student or third-year evening student may apply. Please include all contact information when applying. The award(s) will be between \$250 and \$500.

If you have questions, please contact CAI Administrative Director Elisa Weichel at (619) 260-4600 or [eweichel@sandiego.edu](mailto:eweichel@sandiego.edu).





## NEWS BRIEFS

### Supreme Court of California Holds Special Session at USD

Theresa A. Hrenchir  
Director of Special Projects

The Supreme Court of California will sit in Special Session at the University of San Diego at the Joan B. Kroc Institute for Peace and Justice on December 7 and 8, 2004, in honor of the 50<sup>th</sup> Anniversary of the School of Law. The Supreme Court, invited to campus by Dean Daniel Rodriguez to commemorate the significant milestone of fifty years of outstanding legal education, will hear a total of twelve cases in morning and afternoon sessions on both days.

Students, law professionals, and the public are invited to attend this unique special session at which the Supreme Court, with the assistance

of Division One of the Fourth District Court of Appeal, will conduct an educational outreach program for local high school students. In conjunction with the visit, the court will also be guests of honor at a bench and bar reception, and at a special lunch and dinner on the USD campus.

Details about the event will be distributed shortly to the law school community; however, the court calendar may be found on the California State Supreme Court web page at <http://www.courtinfo.ca.gov/courts/supreme/> and case summaries may be found at the Fourth District Court of Appeal web site beginning November 29 at <http://www.courtinfo.ca.gov/courts/courtsofappeal/4thDistrictDiv.>

### Wohlmuth Highway Opens

Theresa A. Hrenchir,  
Director of Special Projects

The Wohlmuth Highway, an annual colloquium continuing the interdisciplinary examination of complex socio-legal problems, established in memory of long-time faculty member Paul C. Wohlmuth who passed away in 1991, was officially opened on Thursday, November 11, with a presentation on "Professional Vision" by Charles Goodwin, Professor of Applied Linguistics at the University of California at Los Angeles. Faculty, students, attorneys, and members of Institute for Law and Systems Research, which was founded by Professor Wohlmuth in 1992, gathered in the Faculty Reading Room in Warren Hall for an examination and discussion of how the social articulation of human vision is central to the organization of face-to-face interaction. Using a videotape of the beating of Rodney King by members of the Los Angeles Police Department, Professor Goodwin explored the way in which the lawyers defending the policemen who beat Rodney King structured the jury's

perception of the videotape and the crucial importance of practices for shaping how others see consequential phenomena. Professor Charles Wiggins facilitated a lively and provocative discussion session following Professor Goodwin's presentation, and Associate Dean Kevin Cole and Professor Roy Brooks shared remarks about their colleague, Professor Wohlmuth, and the importance of his scholarship and teaching.

The Wohlmuth Highway was so-named in recognition of Professor Wohlmuth's belief that driving the highway provided more than a metaphor for contemporary life; rather, as a laboratory for studying the regulation of traffic flow, the design of the highway is both inside and outside us expressing both our developed capacities and trajectories and the trajectories of our technology. How laws somehow contribute to the trajectories of our behavior is a question relentlessly and energetically explored by Professor Wohlmuth throughout his long career.

### Conference on Cross-Border Prosecution and Extradition Scheduled for December 2

The University of San Diego School of Law and the USD Trans-Border Institute will present a Conference on Cross-Border Prosecution and Extradition in the U.S.-Mexican Context on Thursday, December 2, 2004 from 8:00 a.m. to 5:00 p.m. at the Joan B. Kroc Institute for Peace and Justice on the USD campus. The conference will be followed by a reception.

This conference is open to the public and is approved for MCLE credit in the amount of 5.75 hours (total) of general credit.

More detailed information on the conference, including an agenda and registration information, may be obtained at <http://www.sandiego.edu/tbi/events>.

### Alan K. Brubaker '76 to Receive Distinguished Alumni Award

Alan K. Brubaker '76 will receive the law school's 2004 Distinguished Alumni Award at the awards luncheon at the Wyndham San Diego at Emerald Plaza on Tuesday, November 23, 2004. A reception will begin at 11:30 a.m., and the luncheon will run from noon to 1:30 p.m. The annual Distinguished Alumni Award is USD's Law Alumni Association Board of Directors' highest honor.

Alan Brubaker was awarded his Juris Doctorate in 1976 from the University of San Diego School of Law after having received his Bachelor of Arts degree in 1973 with high honors from University of California, Riverside. His contributions to the San Diego legal community are extensive. A partner with the San Diego firm Wingert, Grebing, Brubaker & Goodwin LLP, he is a former president of the San Diego County Barristers Club, served as a vice-president of the San Diego County Bar Association, and has served on the Board of the San Diego County Bar Foundation. Since 1996, Brubaker has been an arbitrator and judge *pro tem* of the San Diego Superior Court, and has served as a member of the faculty of the National Institute of Trial Advocacy and the San Diego Inns of Court. He currently serves on the Board of Visitors and is a former president of the Law Alumni Association of the University of San Diego School of Law. Brubaker is also a past member of the Board of the San Diego County Bar Association Lawyer Referral and Information Service.

For tickets to the awards luncheon or for more information, contact Jan Barnes in the Development and Alumni Relations Office at (619) 260-4692.

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MOTIONS CROSSWORD

By JEREMY COWAN © 2004

- Across
1. Clays

7. Flip-flop

13. Confined

20. Powerful

21. Threefold

22. Carriage

23. Going so soon?

26. Before

27. Palatable

28. Shelters

29. Jacuzzi

30. Wild sheep

31. \_\_\_-tighty

34. Sooth\_\_\_

36. Attic

39. 67.5 degrees

40. UN grp. with World Bank

41. More disposed

43. Throw me a rope?

47. Market

51. Multiple doubles

52. Inunct

53. Wrongful eviction

55. Personal hangings

59. Honest \_\_\_

62. Old-fashioned

63. Many thousand grams

64. Get-go

67. Creep

68. Flame

71. Been told?

74. Monday, Tuesday ...

75. Paragon

77. Small sofa

78. 1960's abstractionism

80. Corner

81. Time in NY
82. Topper

85. Done right?

87. Consumed

91. Font tail

93. Principal

94. Make a mark?

100. Echo sounder

102. Strike

103. Epoch

104. Algae

105. Meeker

108. None

110. Bridge writer

112. Native Australian

113. Ice hut

115. Painter

117. Taxi

120. Near death?

125. Eyespot

126. Produce

127. Timid

128. Deaf?

129. Greetings

130. Maneuvers
- Down
1. Pine

2. Go-getter

3. Fiend

4. Hymenopter

5. Accede

6. Nourished

7. Stables

8. Aromatic radical

9. North African

10. Pair

11. \_\_\_ Arbor, MI

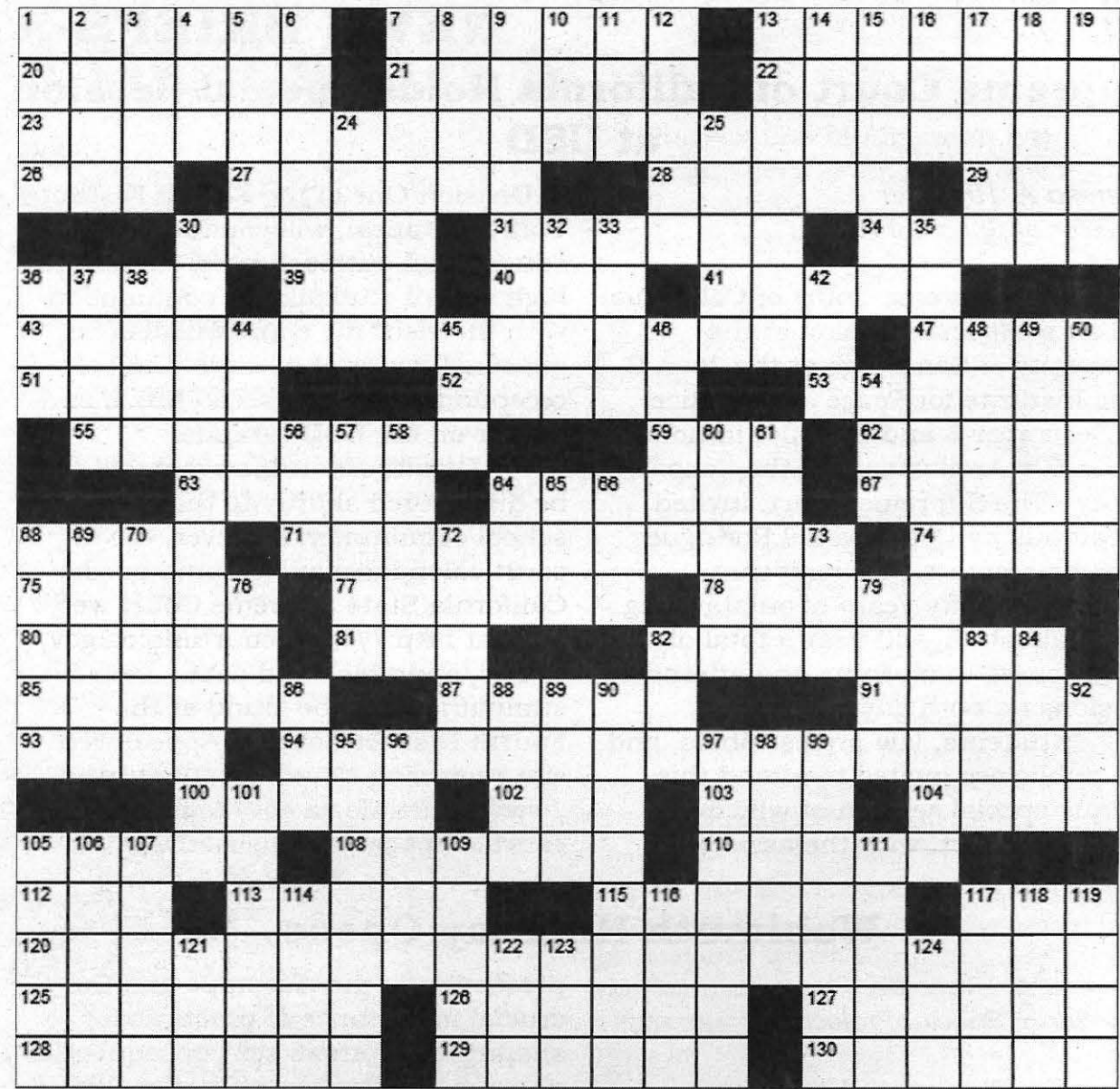
12. Bloodsucker

13. Habitat

14. Epithet

15. Long racket

16. Transmit



17. Holly-like

18. Run off

19. Flask, Chem.

24. William's mum

25. Aggregate

30. Really hungry?

32. Stagnate

33. Insolence

35. Body parts?

36. Hallucinogen

37. Composition

38. Wife in Germany

42. Deuce

44. Fungal uteri

45. Mothers

46. Terminate

48. Sailing
49. Repeat

50. Journeys

54. Increases

56. UN grp. for labor

57. Drench

58. \_\_\_ Park, CO

60. Early modern jazz

61. Public storehouse

64. Frequently

65. Shoshone

66. Eye of \_\_\_ storm

68. Detects

69. Imbecile

70. Anuses

72. Genus Lutra

73. Billfish
76. Pasture

79. Dismantle

82. Yoko \_\_\_

83. Seed cover

84. Small metallic sound

86. Stannous

88. Of air

89. Russian monarch

90. Particular

92. US food grp.

95. Without men

96. Validation

97. Belies

98. Engagement

99. Seraglios

101. Baltimore
- player

105. East California lake

106. Manila hemp

107. Removal company

109. Sponge

111. Fungal disease

114. Wildebeests

116. Suspicious

117. Type

118. Swear

119. Ottoman governors

121. 12th letter

122. Mineral

123. \_\_\_ Aviv

124. Regret

PUZZLED PASSAGES

Q U O T A T I O N

W N T R S R H T P

In the example above, the letter "R" is properly decrypted with "T"; similarly, "T" properly becomes "O". Find the proper letters to decrypt the puzzle. By Jeremy Cowan © 2004

BSMKM QSMKM PY SRADMK, NCB  
PY AGQ KMDCKEME; CAE BSMKM  
NCB PY AGQ KMDCKEME, QSMKM  
BPNN FM SRADMK. -- FMAVCXPA  
OKCAJNPA

ANSWER TO LAST MONTH'S PUZZLE: A VERBAL  
CONTRACT ISN'T WORTH THE PAPER IT'S WRITTEN ON. --  
SAMUEL GOLDWYN

October Solution

